

MUSLIM HOME

PART I

A PRESENT TO
THE MARRIED COUPLE

BY

H. H. NAWAB SULTAN JAHAN BEGAM
SAHIBA, C.I., G.C.S.I., G.C.I.E

Ruler of Bhopal
INDIA.

CALCUTTA
THACKER, SPINK AND

1916

TO MY MUSLIM SISTER
IN THE WEST.

ROOM

FOREWORD.

FOR ages Islam laboured under misrepresentation in the West. Things unknown to Muslim world were ascribed to their faith and its inherent virtues denied. Islam reached Europe through adulterated channels and could not escape the consequences. Dense clouds of misinformation and misconstruction, therefore, enveloped its brilliant face and its beauty became disfigured. This state of things continued till recently, when the trend of events began to change their course and the Western mind became anxious to know more and better of Islam, and get itself disabused of what it saw of our religion through coloured glasses.

Like many other things of Islam the Occident was given a very wrong and, I may say, false notion of the Quranic teachings as to the position of woman in Islam : in fact the very opposite of what has been taught of the fair sex in the Muslim sacred scriptures. It is only to repeat naked truth, if I say that Islam simply came to the redemption of woman when she was

“in the lurch.” Woman was hardly allowed to stand even at the lowest step of the ladder of humanity, and Islam, with one bound, raised her to the top. Prophet Muhammed, the only Benefactor and Emancipator of the weaker sex, gave us a position, religious, social, and intellectual, which a woman prior to his advent could not even dream of. The last word of advice which the Holy Prophet of Arabia had to give to his companion and through them to the whole world was to respect and maintain the sacredness of female rights. “The rights of women,” how nobly he exhorted, “are sacred; see that women are maintained in the rights attributed to them.” “Fear God, in regard to the treatment of your wives, for verily they are your helpers, you have taken them on the security of God.”

In matters of inheritance Islam gives us right which no other civilization, modern or ancient, could think of.

To codify all the rules and regulations promulgated by the Quran and the Holy Messenger to better female condition, to follow which would make simply a paradise of our home, is a work demanding labour and

time, which one entrusted like me by God with the duties of administering a State, could hardly afford. I, however, intend to do something to the enlightenment of my sisters in the West on this subject and write a book, which I name " Muslim Home." It will appear in different parts, and the first of it I publish in the form of these pages under the title of " A Present to Married Couple."

AHMEDABAD PALACE,]

BHOPAL, INDIA,

SULTAN JEHAN,

Begum

Dated 1st January, 1914.

MAN AND WOMAN AND THEIR RELATIVE POSITION.

THE Beneficent God has laid the foundations of social life on the gathering together of men and women, and their intimate relation to each other. It commenced with the descent of the First Man and Woman and will continue so long as there is one single couple of them left on the earth. It was therefore necessary to have certain principles and rules laid down in order to regulate their social intercourse and strengthen their bonds of union. God the Most High has laid down the principles and enunciated the laws in the Holy Quran ; and our Holy Prophet (on whom be peace !) has amplified them in his Holy Traditions. Before, however, entering upon the rules of social life, it is necessary to define clearly the relative spheres of man and woman according to the laws of our religion ; and it will appear that Islam recognises no distinction between man and woman other than those which the very nature of their respective constitution demands,

and that also not to lower her position. In Chapter xxxiii and verse 35, of the Quran which relates to the remission of sins and the reward of good works, men and women are mentioned alike :

“ Verily, the Moslem men and women, and the faithful men and women, and the devout men and women, and the truthful men and women, and the patient men and women, and the humble men and women, and the charitable men and women, and the fasting men and women, and the men and women who preserve their modesty, and the men and women who remember God much,—God has prepared for them pardon and a great reward.” (Surah xxxiii, 35.)

The verse quoted above is in itself a gospel to the weaker sex. It brings woman to equal footing with man on religious and moral planes. Before the revelation of the Quran she had been denied all that purity and sacredness which had been taken as man's sole possession. Japan closed the doors of its religious seminaries against her in times of yore. China could not suffer the females to participate in religious worship with the males. Deified images in India would

lose all divine elements in them if, according to certain Shastras, they perchance were touched by a woman. Even Solomon, the wise, could not allow his queen to enter into the holy precincts of his Temple. The Mediæval Church brought female disgrace to its climax, when all sorts of evil aspersions were hurled over her head under misguided religious notions. Islam, however, came in time, to her rescue and brought her blessings of unique character. But Islam, as I said before, remained subject to gross misrepresentation, and it was alleged that the faith of Arabia lowered her position to the lowest possible degree. Some of its libellers went so far as to say that Islam did not believe in woman possessing a soul. I take it to be a calumny of the deepest dye. The perpetrators of it either do fail to appreciate what soul is, or they have never taken the trouble of understanding those great morals in us, which when properly cultivated strengthen our spirituality and produce high state of human soul. Jesus Christ, when asked by his disciples of the ways which may enable them to work wonders, has been reported to have said the following :—

This kind can come forth by nothing but by pray and fasting.—

St. Mark, 9. 29.

But the Quran goes a step further. It adds to "prayer and fasting" some other high morals to perfect our spirituality, which according to the above-given verse are open equally to man and woman. The said verse—and the Book of God teems with such verses—in itself gives the lie to the notion obtaining in the West that Islam denies soul in woman.

In all Islamic teaching one does not fail to find a clear tendency to create equality between woman and man. The two sexes are, however, meant by nature, to perform separate duties and, therefore, do differ in their nature and constitution.

To propagate the species, they had to perform different functions and were consequently given different equipments. It led to palpable diversity in their respective physique and morals; and gave tenderness to one and strength to the other. To nurse young ones and to rear them up properly did demand tenderness in morals to an extent which was sure to disable their owner to face unavoidable trials of life. If woman was, therefore, given the charge of domestic duties, man was required

to fight the hardships of the times. To secure peace and safety to life and property consequently fell to the lot of the stronger sex, who got, therefore, a sort of precedence over the other. This one superiority in man was a necessary sequel of the respective parts man and woman had to play in the propagation and protection of mankind : otherwise they were meant to be equal to each other in every other respect. How beautifully the Quran bears out this truth when it says :—“ And women have a right like as men have a right against them—*i.e.*, to them is due what is due from them— in all fairness but men have been given a rank above them.” (Chapter ii, 228.) The very reason, as given above, of this superiority of men over women has been explained in another verse of the Quran. “ Men stand above women, for that God has graced the one of them above the other and for that they spend of their substance (for them).” (Chapter iv, 34.)

The superiority of men as set forth in the above verse is by no means prejudicial to the equality of the sexes. Evidently such superiority is essential to the good governance and maintenance of the universe : if this gradation

were abolished, the peace of the world would be seriously menaced and all affairs would be at a standstill. This distinction is by no means confined to the relation of the sexes, but it is manifest in all the affairs of this world : one is rich, the other poor ; and Nature has so knitted them together that the one is dependent upon the other. No matter how liberal-minded one may be he cannot level these distinctions off. They, however, do not interfere with the said equality in principle. Superiority assigned to man is by no means intended to affect the rights of woman : and the equilibrium is amply maintained by the sacred trust to woman, that of " bringing up " infants. In this respect we may well call woman the object in which God's nursing attribute is manifested, and this position though not superior is certainly by no means any the inferior to that of man, who in his capacity of " standing above women " assumes the eternal attribute of the Great Maintainer. Thus the two great divine attributes—the Maintenance and the Nourishment of the universe found their epiphany in mankind through father and mother. The difference in the nature of these two duties together with the

difference in their requirements created some physical and moral difference in the male and female, but to minimise its effect the verse was clear enough to say :—

“To her the same what is due from her.”

It is noteworthy that the right of bringing up infants is assigned to the mother who can perform this part better and with a tenderness not to be found in the father ; he, however, is responsible for the expenses of the upbringing. The following verse of the Holy Quran relates to this point :—

“ And mothers shall give suck to their children two full years for him who desires to complete the suckling ; and on him to whom it is born devolves their sustenance, and their clothing, according to what is just.” (Surah ii. 233.)

These verses when read together only go to make it clear that this superiority of man after all is a partial superiority and that it cannot be used by one to other's detriment, and that real precedence consists in superiority of action and deed. This truth has been inculcated in another verse in the Quran which

dealing with the relative position of woman and man, runs thus :—

“ And do not boast of the precedence which God has given to one of you over the other, the men shall have a portion of what they earn and the woman also a portion of what they earn, and ask God of his grace, verily God knows about all things.” (Chapter iv, 32.)

Similarly in matters of disagreement between man and wife the course adopted for reference to arbitration maintains the same right of equality between man and wife. The Holy Book says thus :—

“ And if ye fear a breach between the two (man and wife) then send a judge from his people and a judge from her people : if they desire a reconciliation, God will arrange between them ; verily, God is knowing, informed.” (Surah iv, 35.)

The special regard to the weaker sex which underlies all these principles and laws makes the position of woman specially prominent. It is also remarkable that a special chapter was revealed concerning them which bears their name—the Suratu'n-Nisa (the chapter of Women). Added to this, their exemption

from such acts of devotion which are likely to tell upon their constitution—they are not bound to be present in the Congregational Service (prayers) at the Mosque even on Fridays ; they are not to do battle in the Cause of God. And the rewards due to such pious acts are appointed for women on their performing certain lighter acts of devotion, e.g., a woman acquires the merits due to the man who does battle in the Cause of God (Jihad) by performing a pilgrimage (Hajj) to Mecca, the troubles attendant upon such a journey on the part of woman being taken as equivalent to the troubles a man undergoes in a fight in the way of God. Similarly giving birth to a child or nursing it even secures the same merit in the eye of God.

It has been reported by Ayesshah (God bless her !), wife of the Holy Prophet, that when she questioned the Prophet as to whether Jihad was enjoined upon women, he replied in the affirmative, but explained that the Jihad enjoined upon women was one in which there was no bloodshed and no slaughter, such as the pilgrimage to Mecca or a visit* thereto.

These words of the Prophet are eloquent enough to give true exposition to Jihad. It is not always war in the Cause of God which amounts to Jihad, but all good deeds to further ends of God mean Jihad.

She also related that on one occasion she asked for permission to take part in a Jihad, but the Holy Prophet said that a pilgrimage on her part was equal to a Jihad:

Abu-Hurairah reports that the Prophet said that the person who undertakes the maintenance of an orphan, whether a stranger or a relative, is nearer to me as the two fingers in a hand (he showed by bringing together his two fingers), and one who strives to bring up three female orphans will certainly have, in the future, paradise as his abode, and his reward will be equal to that of a man engaged in Jihad for the Cause of God, who is at the same time fasting and is steadfast in his faith. And it need hardly be added that this is exactly the part of a woman's work which it is given to her alone to fulfil most admirably.

Above all, women are to be treated with the utmost respect, and corporal punishment is to be inflicted upon their calumniators in this world, who have been declared to be under the curse of God in their life to come as the Book says :—

“ And those who asperse chaste women, and then bring not four witnesses, scourge

them with eighty stripes, and receive not their testimony for ever ; and these, they are the wicked doers." (Surah xxiv, 4.)

The other verse in the Surah runs thus :—

“ Verily, those who asperse chaste women, —careless, believing,—shall be cursed in this world and the hereafter ; and for them is a great torment.” (*Ibid*, 23).

I shall now treat of the matters bearing upon the relation of man and wife and their social intercourse.

MARRIAGE.

Our civilization is as much due to the efforts of man as to the troubles and privation of woman. To bring our struggles in life to success they both should unite and work together ; and it is only natural that certain laws should be framed to define their respective rights when they enter into conjugal relation to perform that great end. In order to make this relation happy, definite principles have been laid in every age and among every people. But in dealing with this relation Islam, true to its natural proclivities, has followed higher principles of Nature ; and woman being the weaker of the two, every allowance has been made in her favour.

Among Mussulmans this relation begins with the contract of marriage, which is a sacred religious institution. The first principle on which this institution is based is the free consent of man and woman ; and the woman who has arrived at the age of puberty is as much free as man. At the marriage, the presence of

a proxy and two male witnesses is considered essential ; or in case two male witnesses are not available, one male witness and two female witnesses are required ; no marriage can take place without the presence of the witnesses. If the woman is present on the occasion and offers herself in marriage, no proxy is needed. It is also essential for the validity of a marriage that the offer is actually made by the woman and accepted by the man. If, on the lawful guardian asking permission of the unmarried girl, she keeps silence or smiles it is interpreted into an affirmative reply.

Under certain contingencies people stand in need of marrying the minor couples. Though a rare occurrence, but to perfect the law Islam has also made provisions for the same. The marriage of the minors takes place with the guardians as proxies on either side, or some others appointed by them to represent their respective parties ; any marriage without such proxies is considered invalid. The minor boy or girl, on attaining his or her age is however free either to continue or dissolve the marriage. But the parties are only allowed to use this privilege when the lawful guardians are other

than their fathers or grandfathers, but if the father or grandfather has given away his children in marriage, the parties are not free on attaining the age of marriage to dissolve the marriage. This distinction is based upon the natural affection and love of the father and grandfather whose wisdom, experience, and solicitation for the good of their children to get suitably married is bound to be beneficial beyond doubt. And it is, therefore, imperative that in such cases a girl should not be allowed to dissolve her marriage.

If the minor had knowledge of the marriage before attaining puberty, the marriage-knot can be dissolved as soon as she attains her age ; and if she has no knowledge of it, before arriving at the age, she can dissolve the marriage the moment she comes to know of it ; but any delay in dissolving the contract after the knowledge nullifies the effect of this privilege.

If an unmarried woman marries a man not her equal in social position, the marriage becomes invalid. Of course, if her guardians (father and grandfather) agree to the connection it will be considered valid. Similarly, if a woman agrees to a dowry much less than

is usual in her family without the permission of her guardian, the guardian can have the marriage dissolved through the Qazi (or judge) but if the deficiency is made up the guardian ceases to have this right.

To avoid all clandestine connections it is considered meritorious for the marriage to be performed and celebrated in a Mosque and on a Friday—the day of congregation, and to read wedding sermon (*khutbah*) on the occasion is considered a *sunnat* (a practice consecrated by the Holy Prophet). Tirmizi relates the following :-

“ It is reported from Ayesah (God bless her !) that the Holy Prophet of God said :— ‘ Notify this marriage, and perform it in the Mosque, and celebrate it by beating tambourine.’ ”

It is also a *sunnat* to distribute dates after the sermon. If the girl be a minor, she can be married with the permission of the guardian. It is allowed to the marriageable woman, or to her guardian acting for her, to enter into any special contract with the husband at the time of marriage, which is lawful ; but any of the following contracts are held to be invalid :

(i) That the wife shall dwell with her parents even after she has arrived at the age of puberty. In this case, if the husband has paid off the whole dowry, or part of it due immediately after the marriage, he may keep his wife with him.

(ii) That any one party will have unqualified power to dissolve the marriage.

(iii) That the marriage is for an appointed period ; in this case, not only the contract but with it the marriage becomes void.

POLYGAMY

THE subject under discussion will remain incomplete if I say nothing about polygamy, or better called polygamy, as polyandry in ~~Islam~~ is strictly prohibited. The subject has caused a great misunderstanding even in the learned class of the non-Muslims. To take polygamy as an essential in Islam, would be an unpardonable mistake. In fact the teaching of the Qur'an goes otherwise, and strongly recommends monogamy. Islam claims to be a universal religion. It was not revealed to meet the requirements of a particular race or age; with its world-wide mission Islam had to look to the requirements of all ages, countries, and civilizations. Besides the substantial laws, the code of Islam, as every wise legislation must do, provides certain ordinances which may be called as adjectives or remedial laws, with an elasticity to meet the contingencies of the place and time. It deprecates their abuses and lays proper restrictions as to the use.

The events of the world give rise sometimes to circumstances which cause appreciable paucity in the number of men. Tribal wars often lead to the same result; and leave numberless members of the weaker sex without home and protection. With all our refined ideas of chivalry and broad-mindedness, no other institution but marriage can safely come up to save the situation. Other measures have been schemed and tried, but they could not avoid undesirable results. To maintain strict continence and piety in society Islam would not recommend any woman to seek refuge under the roof of any man who does not stand in marital, or within the prohibited degree of, relation to her. Our experience also goes a long way to endorse the advisability of Islamic policy in this respect. Polygamy is the only specific remedy to meet the need. But woman has not been left without her own choice in the matter. To secure her peace, comfort, and happiness if she needs no other's help or protection, no one would compel her in Islam to marry one who is already a husband to another woman. Thus polygamy as said before is a sort of remedial law in Islam which may come

to operation when opportunity arises and should not be resorted to when there is no occasion for it. It is not only for connubial purposes that an equality of number in men and women is a necessity. Human life presents occasions where only men are in requisition. How to fill our shattered ranks and make up the dearth, if some national calamity causes unimaginable decrease in male number? The only two resorts left are either to encourage bastardy or adopt polygamy. To recruit the number, human society sometimes presents such situation, to solve which no one with the least sense of decency in him would recommend the former course. One, in fact can not understand the rationale of the law in the west which, practically speaking, condones what it condemns under the name of bigamy. Marriage after all is only a union of man and woman which under specified form received the sanction of the society. Therefore, if special circumstances at a time do demand multiplication of units in a nation, why not legalise what has already received the sanction of practice and usage, and save thousands of thousands of souls from the ignominy of being called 'bastard,' and thus

give them right to inherit everything of him who gave them their body. It would go to improve morality and strengthen sacredness of nuptial rights. Thus polygamy sometimes becomes a national necessity.

The institution has also its legitimate uses in individual cases as well. A house without children is as silent and dull as a churchyard. Besides, propagation of one's species is the most important of all the purposes of marriage, and if all hopes of an issue through the first wife are at an end, there are only three ways open to man: either to divorce the wife, or to deny himself the pleasure of having an issue—the desire of every married man—or to wait till the death of the wife, and spoil his whole life.

Is not then a second contemporaneous marriage to be preferred to any of the above conditions? Besides, man sometimes is obliged to adopt this course from social and political considerations. He may do it and save heart-burnings, if he is strongly attached to his first wife. The case of Napoleon presents a good illustration. He had to divorce his well-beloved wife Josephine, a lady possessing virtues and abilities of a very high order. There was

warmest attachment between the two, but Napoleon could not have an issue through her, and the country therefore insisted upon her divorce. The account of her divorce as related by historians is extremely pathetic. Napoleon married another wife, he reigned splendidly and enjoyed the benefits of a prosperous kingdom; then came calamities upon him, which continued until his death. Josephine had been divorced, but their love for each other underwent no change. Josephine remembered him with ardent love and sympathy in his troubles and calamities as in the days of happiness. But the strong cord which could bind them together had snapped asunder. If polygamy were allowed— and this was, I say, one of the very rare occasions where the Jurists of Islam have sanctioned polygamy— Napoleon and his widow would not have suffered this extreme affliction. Muslim ladies have often allowed their husbands in *such* cases to take another wife and beget an issue.

But in the case of woman it is otherwise. She has very little to do with politics, and she may keep herself aloof from social matters as well, if she chooses to do so. Thus she scarcely

has to face the contingencies mentioned above ; but when there is such an occasion the law supplies for her a measure which is known in Islam as *Khula*, hereinafter explained. But the law does not allow a woman to have at one time more than one husband. This is quite in consonance with reason. Ascertainment of paternity is necessary for the welfare of offsprings as far as their maintenance and general bringing up goes, and it would be simply impossible in case of polyandry. Man may have more than one wife : there can be no difficulty in settling the question of their children's parentage and with it their share of inheritance in the father's property. But if it were ordained (which God forbid !) that a woman could have several men as her husbands, there would have arisen, besides the corruption, disputes as to the paternity of the children, their inheritance, education, and training, and the whole superstructure of society and civilization would have gone to naught.

Of course those who indulge in polygamy without any obvious reason, and do not fulfil conditions imposed upon them by Islam, deserve public contempt and hatred. Islam

does not permit plurality of wives to every one. It placed the institution under restrictions which gradually proved to be a most efficacious check to polygamy, and made the largest portion of the Muslim world observe strict monogamy. The best check in fact has been provided in the very verse of the Ouran which has been taken to authorise polygamy.

“ Then marry what seems good to you of (other) women, by twos, and threes, and fours ; but if ye fear that ye shall not act equitably, then one only.” (Chapter IV, 3).

In this verse the license given to polygamy is curtailed by the proviso which enjoins strict equity and justice towards all wives obligatory on man. In case a man feared that he could not act equitably, and justly between his wives he was directed to be content with one wife only.

In this verse the word “ fear ” deserves special attention : that is to say, if a man is afraid that he will not be able to comply with the proviso, he must not go beyond one wife. And it need hardly be pointed out how difficult it is to give every one his (or her) own just due ; nor is every one able to do it. Nay, the book

of God itself admits in another verse, the inability of man to observe the required equality of treatment in every respect to all of his wives, and thus emphasizes the desirability of having only one wife ; but suggests at the same time a very wise course to those who under unavoidable circumstances have been compelled to have ~~more~~ more than one wife.

The verse is as follows : " And ye can never act equitably between women, although ye covet (it) ; but turn not with all partiality to one, nor leave the other like one in suspense ; but if ye be reconciled, and fear (to do wrong), verily, God is Forgiving, Compassionate." (Surah IV, 129). Again, " And if a wife fear ill-usage or aversion from her husband, it shall be no crime in them both that they should be reconciled among themselves with a reconciliation, for reconciliation is best. And souls are prone to avarice, but if ye be good and fear (to do wrong), verily, God is informed of what ye do." (*Ibid* 128).

It will thus be clear from the above verses that when a man has married two wives and is inclined towards the one to a degree of aversion against the other, and is prepared to

divorce one of his wives, the above verses lay directions for the guidance of both man and wife, namely, that they come to an understanding among themselves and be reconciled—the wife by foregoing some of her rights, and the man by self-control. This would save each of them the troubles attendant upon a divorce.

One may come to similar understanding with his wife before he launched his boat in what may subsequently prove to be troubled waters.

But the best remedy to save future unpleasantness lies in the hand of woman in Islam, where marriage is a civil contract and can be saddled with necessary conditions, to violate which would in itself bring marriage to nullity. Thus a woman who fears the possibility of second marriage, on the part of her fiancé, can make provisions against its unpleasant effects before she is married. She may get special damages provided in her contract of marriage, when the contingency arises; she may have the option of living separately from her husband with a suitable maintenance or get herself divorced and lead an independent life and recover damages as well. But this should all be provided for in the contract of marriage.

Polygamy in a word, in Islam, is a remedy. It has its uses and abuses. Islam guards against the latter and allows the former under restrictions and stringent limits.

More knowledge of human needs and exigencies would enlighten the world and enable it to see the necessity of allowing an institution like polygamy with its rare and limited use as in Islam.

NUPTIAL RIGHTS.

1. THE RIGHTS OF THE WIFE.

I shall first treat of the rights of the wife upon the husband.

(i) *Dowry*. In this category first come the right of the wife to her dowry, which is an essential part of marriage. There is no limit to the amount of dowry that may be fixed upon in a marriage. This depends upon mutual agreement and the ability of the parties.

There are two sorts of dowry: one, *mahri mu'ajjal*, the other, *mahri ma'ajjal*. The former is promised to be paid to the wife on demand, and the latter on the expiry of a term, even though this term may not have been definitely fixed. In case, however, the amount of dowry has not been fixed at the marriage, and the separation comes before the consummation of the marriage, a reasonable dowry is allowed, i.e., according to the dowry settled upon the marriages of the husband's grandmothers and other female relations on the father's side. If the man become richer after marriage, and the

wife desires an increase in her dowry, while the husband also agrees to it, the amount of dowry may be increased. If the amount of *mahri mu'ajjal* and *mahri mu'ajjal* has not been clearly set forth, the same shall be understood according to the practice in vogue in the society of the place. Where any part has been paid off immediately after the marriage, it shall be considered as part of the *mahri mu'ajjal*.

If, after the marriage, from some cause or other, the wife cannot go to live with the husband, or if the husband is not willing to take her to live with him, or if she has been married in childhood under proper guardian and the marriage is not consummated while the husband dies, she shall have the whole of her dowry, and, in case of divorce, one-half of the dowry settled upon her. In the event of the husband's death, since the marriage-contract is fulfilled, the whole of the dowry becomes due; but in the event of divorce, the contract is but half fulfilled, and only half the dowry becomes due.

In the latter case, since the husband enjoyed not the company of the wife, she is not entitled, therefore, to the full amount of dowry settled upon her in marriage for the fulfilment

of this part of her contract. But in view of the restriction put upon her after betrothal, and the separation may tell upon her fair name and dignity, the law of Islam has provided this as a compensation.

In the case of divorce after the consummation of marriage the whole of the dowry (or part of it not paid) whether *mu'ajjal* or *ma'ajjal* must be paid, and may be recovered like other debts : but if the divorce takes place before the consummation of marriage, only one-half of the dowry becomes due. The Quran says as follows on the subject :-

"And if ye divorce them before ye have touched them, and have already settled a settlement for them, then (ye shall give them) half of what ye have settled, unless they remit (it), or he remit (it) in whose hand is the knot of marriage ; and that ye should remit is nearer to piety. But forget not grace among yourselves ; verily, God sees what ye do." (Chapter II, 237.)

And if the amount of dowry has not been clearly set forth, the husband is directed to pay something to the wife according to his means and the law and practice of the society as we read in the Quran.

“ It shall be no crime in you if ye divorce women so long as ye have not touched them, nor settled any settlement for them ; or provide for them—he who is well-to-do according to his ability, and he who is hard-up according to his ability—a reasonable provision—a duty upon those who do good.” (*Ibid* 236.) .

Dowry must be fixed according to the means of the husband, and paid to the wife either immediately or from time to time by reasonable instalments.

Sometimes marriages take place under the guardianship of parents, and dowry is fixed upon according to their judgment. In such cases, it is incumbent upon the parents to fix upon a sum that may be paid, and, more especially, the husband's father must look to it above all. Generally speaking, there are in all Muslim States Qazis* who preside at marriages, and an entry as to the amount of dowry is made in their registers which are regarded as authentic. Where there are no such systems it is desirable to have a deed of dowry drawn up in order that it may serve as a good evidence

* Priests to perform religious part of marriage in Muslims.

in all law-suits. The legal validity of the deed of dowry is an important item of life for a woman. In this connexion, when the matter goes to the court, it must also be remembered that a suit is frequently barred by limitation if not filed in time. In Islam there is no place for the law of limitation, but the excuse is considered invalid, as in all civil suits limitation is an important point of law, and no law-suit is allowed for the recovery of dowry after three years.

The period for the payment of the *mahri mu'ajjal* begins when the same has been first demanded and the payment refused; but when no demand has been made during the whole term of the married state, it begins at death or divorce, whichever may bring the contract to an end. The period for the payment of the *mahri mu'ajjal* is also three years, and it begins from the date of the death of the husband, or divorce.

(ii) *Proper Maintenance*.—Next to Dowry comes maintenance. The man is obliged to maintain his wife reasonably. And it is for this that man is given the precedence above woman.

“Men stand above women, for that, God has graced the one of them above the other, and for that they spend of their substance (for them).” (Quran, Surah IV, 34.)

It is, therefore, incumbent upon man to give women their dowry and proper maintenance freely, which are an especial right of women. There is no limit as to the maintenance to be given to the wife, but it must be according to the standard prevalent locally with due regard to the status of the parties concerned. If the man is better placed in life than the woman, he is bound to provide for her according to his own station in life; and if the woman is better placed than himself, to provide for her in a way that may be only short of her station in life and above that of his own. In the meantime, the man is to make up the deficiency in his wife's maintenance so far as he can, the deficiency being regarded as a loan due to the wife, which the man must make good as soon as he is able to do it. All suits regarding maintenance are heard by criminal courts. Maintenance is due to the wife until she is divorced or unless she is openly recalcitrant. But in the case of divorce, she is also entitled

to maintenance until her period expires, according to the scale allowed her before the divorce, provided she obeys her husband in regard to her lodging and general behaviour. Maintenance continues even after the divorce if the woman has a suckling baby at the time of divorce. For this also the Holy Quran has specially provided as follows :—

“ And mothers shall give suck to their children two full years for him who desires to complete the suckling ; and on him to whom it is born (devolves) their sustenance, and their clothing, according to what is just ; no being shall be tasked but according to its capacity. A mother shall not be forced for her child, nor he to whom it is born for his child, and upon the heir (devolves) the like of that. But if they desire to wean by consent and counsel among themselves, then it shall be no crime in them, and if ye desire to have a nurse for your children, then it shall be no crime in you, when ye fully pay what ye offer her, in all fairness. And fear God, and know that God sees what ye do.” (Surah ii, 233.)

(iii) *Kind Treatment*.—The husband is also enjoined to treat his wife kindly. This includes

all the virtues of a man which go to make the wife happy. If a man has more than one wife, he must also treat them all with equity and justice. He is obliged to allow his wives to associate with their relatives, and she must never be prevented from taking part in her religious and social circles.

(iv) *Education*.—It is also the duty of a man to educate his wife especially in religion and on those points which relate to her every day life duty. If he happen to know little himself he must get instructions from a learned man to teach his wife, or must make arrangements for her religious instructions. Otherwise the husband will be held responsible for any disregard of law and religion on the part of the wife. "Give your wife good counsel," so enjoined the Holy Prophet, "and if she has goodness in her she will soon take it and leave off idle talking, and do not treat your noble wife like a slave."

2. *The Rights of the man*.—The wife is bound to live in the dwelling of her husband, and to live chastely, and to obey him in all that is lawful, and to spare no pains to make the man happy. I have dwelled on this subject in the coming chapter.

MUTUAL FIDELITY AND LOVE.

It must be remembered that the comforts of a home, social happiness, and management of the household, all largely depend upon a virtuous woman. That virtue in woman should be given the chief consideration in the selection of wife appears from the following wise words of our Prophet where he says :--

“ A woman may be married by four qualifications : One, on account of her money ; another, on account of the nobility of her pedigree ; another, on account of her beauty ; the fourth, on account of her virtue. Therefore look out for a woman that hath virtue, but if you do it from any other consideration your hands be rubbed in dirt.”

The Holy Prophet (on whom be peace !) said that “ the world is provision, and the best provision of this world is a virtuous woman.”

He has commended the virtues of the Quraish women as follows :—

“ The best women who ride on the camel are those of the Quraish. They are most

affectionate to children in their infancy, and best protect the property of their husbands."

It must be noted that all good management of affairs are based upon the two qualities mentioned above in the Quraish women. Women, if virtuous, will convert their home on this earth into paradise, and shall enjoy all the pleasures thereof. Take for example, the poor man's home where once in twenty-four hours the inmates get only to satisfy half their appetite, and sometimes have to go without a meal for a whole day and night ; but still when the husband enters the home his wife greets him joyfully and he equally embraces her warmly ; their united love falls on a little child that may be playing about. They eat and enjoy thankfully, and endure the severities of life with patience, while always thinking of giving comfort and ease to each other. They enjoy the blessings of happy home-life. In this humble cottage, where an earthen lamp (*chiragh*) gives but dim light, there are the rays of God's light.

Now, go to that stately mansion well-supplied with all the comforts of life, but with no love between the man and wife ; darkness

and gloom pervades everywhere, there mental anguish takes the form of stinging scorpions, and grief and vexation that of dragons opening their jaws to swallow them up.

There is no doubt that in Islam men and women have equal rights, but women are weak and delicate, and men act as their guardians and supply all their necessities of life. Men have, therefore, some precedence above women as explained in the preceding chapter; and if we give a thoughtful consideration we shall see the wisdom of God therein.

I give below some traditions of the Holy Prophet which show the position of the husband and the standard of female virtues.

"Anas reports that the Holy Prophet said that when a woman has said her prayers five times and has fasted the month (of Ramazan), and has preserved her chastity, and has obeyed her husband, she will certainly enter the gates of Paradise by whichever gate she pleases."

"Abu-Hurairah reports that the Holy Prophet was asked, Which of the women is best? He said, 'She who, when her husband looks upon her, gladdens him; when the husband commands a thing, she obeys him; and

who never fails him in her person and wealth, and never displeases him. ’ ’

“ Ibni Abbas reports that the Holy Prophet said, ‘ Whoso is given four things, he is certainly given the best things of this world and the hereafter—a thankful heart, a tongue that remembers God, a body that can endure a calamity, and a wife who defrauds not her husband in regard to her person or in regard to his property. ’ ”

The husband is to be obeyed even above the parents.* Obedience to parents is enjoined upon all children alike, as we will discuss later on, but in view of the rights of the husband, married women are not bound to the same duties towards their parents as their unmarried sisters; for a woman her first duty is to her husband, which is also her highest duty. But it must be remembered that parents or husband shall only be obeyed so long as obedience to them does not constitute a sin in the sight of God.

The Holy Prophet has said, that “ no obedience is due to a creature in respect of any sin against the Creator.”

Islam has also defined the rights of women and the obligations of men, and has divided

their rights and obligations among them in a way that is in accord with the civilization of all ages, and is also natural.

The Great God, while commanding women to be obedient towards their husbands, also commands the husbands to take care of their wives and to look to their comforts. To maintain them with kindly treatment which women so highly esteem, is enjoined upon men, while ill-treatment is strictly condemned. In cases of polygamy, "justice and equity" to all wives are made imperative, while in the matter of divorce special regard has been shown to women.

The following verse of the Quran refers to the kind treatment of women :—

"And associate kindly with them, for if ye be averse to them, it may be that ye are averse to a thing wherein God has placed much good." (Surah iv, 19.)

The Holy Prophet (on whom be peace!) was a model in the treatment of his wives, and he has recommended such treatment to his followers. He looked upon a kind treatment of the wives as a meritorious act, and has exhorted his followers to bear with patience any

ill-treatment offered to them by their wives, and has likened patience on the part of the husband to the patience of the Prophet Job. The Prophet also said that "a man who beats his wife is by no means a good man." "Admonish your wives with kindness" was his word of advice to his companion.

"Ayesah, the mother of the faithful, reports that the Holy Prophet said, 'The best man among you is he who is best to his wife; and I am the best among you in respect to my wives!'"

'Abu-Hurairah reports that the Holy Prophet said, 'The most perfect among the faithful in point of faith is he who is the best among them in point of disposition, and who is most kind among them towards his wife.'"

Abu-Hurairah also reports that the Prophet of God said, "Let not the faithful man hate the faithful woman; if he hates some disposition of hers, let him be pleased with another that is in her."

Again the sign of a man's perfect faith is thus set forth:—

"The most perfect among the faithful in respect to faith is he who is the best in

disposition among them, and the best among you is he who is the best among you towards your women." (Mishkat.) In short, it is necessary for both, in social intercourse, to regard each other, and to behave with decency according to their respective ranks. Men and women are alike to hide each other's failings, to preserve confidence, to comfort each other, and to be to each other as ornaments. The idea has been borne out in a very apposite verse in the Quran where it says :— " Women are a garment to you and ye are a garment to them." (Chapter ii, 187).

As garments are intended to cover person and things to be concealed, men and women are said to be as garments to each other, that they may hide each other's failings ; and it need hardly be said how much this duty is necessary to the well-being of society.

SOME MEASURES TO AVOID ILL- TREATMENT AND KEEP PEACE IN THE FAMILY.

IN order to secure good treatment from husband, and keep peace and happiness in a family, woman has been given right to separate herself from her husband and claim maintenance from him as well under certain contingencies ; she is entitled to refuse to live with the husband in case the *mahr* (dowry) has not been paid. And if the husband perpetrates a crime or misbehaves himself in the house, the wife is entitled to live apart from him and to apply to the judge demanding maintenance from her husband ; if the husband has in any way improperly treated her, she may sue him in court to seek redress and even demand separation from him. If she has been treated with severity, or threatened to be dealt with harshly, especially when the husband neglects to fulfil the duties imposed upon him by the law, the wife may refuse to live with him, and she cannot be sued for the restitution of conjugal rights.

She is also entitled to maintenance. Similarly if the husband turns her out of his dwelling or goes away without providing maintenance for her she may seek redress from the court by applying for the maintenance. If the husband uses such words towards the wife which imply that she is to be unlawful to him the wife is entitled to refuse to live with the husband until he has undergone the penances consequent upon such a conduct ; and she may apply to the court to enforce the precept or for the dissolution of marriage.

To avoid any harsh treatment by the husband, or if she has reason to fear that her health or life would otherwise be endangered, the wife is free to leave the dwelling of her husband ; but she will continue to be his wife and she cannot marry another until she has been divorced ; and in the meantime the husband will be liable for her maintenance. So long as the wife conducts herself decently, the husband will also be liable to pay her the dowry as usual, and unless she is divorced, she has a share in the inheritance of her husband. If a man intends to make a will with regard to his landed property in order to deprive his wife of the inheritance, if there

THE MARRIED COUPLE.

is no other legal flaw in the will, the woman shall have her lawful share in the inheritance after the deduction of a third part of his whole estate, which alone he has power to dispose of by the will.

The woman has full rights and powers in respect of her own estate, and even after marriage she continues in her rights and powers ; she can enter into any agreement with regard to her estate without the permission of her husband. She can transfer her estate. There is absolutely no religious or other law to bring her husband's pressure upon her ; all responsibilities and liabilities rest upon her alone.

2. *Powers of the Husband.*—The husband has power to divorce his recalcitrant wife ; he may refuse to maintain her ; he may sue her for the restitution of conjugal rights, and it shall be incumbent upon the wife to obey the injunctions of the court. She is also liable to corporal punishment, though very light, for her fault. If the wife misbehaves herself, and leaves her husband's dwelling, she shall not be entitled to any maintenance at all.

SEPARATION BETWEEN MAN AND WIFE.

As marriage links together man and wife and makes them sharers in the happiness of this life, so death and divorce (whether availed by the man or the wife) cuts asunder the ties and brings about a separation in their relation. And Islam has provided special laws for these emergencies.

1. *Death*.—On the death of any one of the married pair the marriage contract naturally comes to an end.

2. *Divorce*.—When separation takes place at the will of the man, it is termed divorce (*taláq*), but this is only allowed in extreme cases when there is no help left. The Holy Prophet is reported to have said: “The most hateful of lawful things in the sight of God is divorce.”

Again, “God has created nothing on the face of the earth that is more hateful to Him than divorce.”

Divorce, therefore, as the holy words of the Prophet show, is one of the most hateful of the things allowed in Islam, and, therefore, the less it is resorted to, the better. But disagreeable circumstances do arise sometimes and make separation a necessity. Even then, the law in Islam places many restrictions upon divorce in order to create occasions for further consideration and opportunities for reconciliation between the parties. But if after all this, they do not find their way to continue in marital relations, the husband and wife are free to separate from each other and to save the latter the hardship of having her future prospects wrecked. To prevent people to make light of divorce and to think of it more seriously, various means have been adopted. Even to make mention of divorce in reference to one's wife has been declared to lead to far-reaching consequences; so much so that it may cause real separation in some cases. A Muslim, therefore, is always under a sort of restraint, and fears to let his tongue unbridled on such a sacred subject. There is, however, a difference of opinion according to the expression used. If the words used mean or are meant to be used

for dissolution of marriage divorce will take place whether there be the intention on the part of the speaker or not, but if the words do not plainly mean and are not used for dissolution, while they also admit of other interpretation, divorce cannot take place unless there be also the intention in the speaker to divorce. The former class of words being plain and the latter figurative, the divorce that follows has been styled so, *i.e.*, plain or figurative.

Words used for divorce must refer to the woman in question, otherwise no divorce takes place ; she need not, however, be addressed. Reference to her name or mention of something defining her will suffice.

With the same object in view, divorce in Islam has been divided into three kinds according to the expressions used.

1. *Raja i.*—It means the divorce expressed in plain terms once or twice. In this case the parties have the option before the expiry of the *iddat* (a term of four months and ten days) to return to each other without renewing the marriage-tie ; but if the term expires, they shall have to undergo a fresh marriage in order to renew the conjugal

relations between them. This form of divorce is called *raja'i* because the parties are herein allowed within the period of *iddat* to return to each other. This measure is provided to nullify the effect of a rash act taken under provocation or heat of passion. It gives the parties an opportunity to reconsider their position, and not to bring the marital relations so abruptly to an end. The period is long enough to remove the cause of provocation and to have passions subsided, as well as to provide calm moments for better judgment.

The Holy Quran says :—" Divorce may happen twice ; then either keep (them) with humanity, or dismiss (them) with kindness." (Surah ii, 229.)

2. *Báyin*.—When the expression used to signify divorce, is figurative or some defining words are added to those used in case of the *Raja'i* divorce in order to make it more emphatic it is called *Báyin*, which literally means separation, as it leaves no right to resume conjugal rights except by renewing the marriage and if the parties agree, they may return thus to each other within the *iddat* or after the expiry thereof. As the mode of expression

in question showed matured consideration, hence the difference. While in anger one is always plain and brief in his expression, figurative language on the other hand is the result of matured thought; hence the former leads to *Raja'i* divorce, and the latter causes *Báyin*. But the concession is allowed in the latter case also. If the parties agree they may return to each other by a fresh marriage.

3. *Mughallazzah* (the severest) is the name of the third kind of divorce. It takes place when the expression for divorce is pronounced three times, at a time or with some intervals one after another. This is very dangerous undertaking as it leaves very little chance for the reunion of the unhappy couple. The only way to bring them together in most cases borders on impossibility besides its being very uncongenial.

If after the expiry of *iddat* some one else marries the woman and this marriage after full consummation again ends in divorce, not under some previous arrangement or constraint put upon the newly married couple, but as a matter of chance, the former husband may remarry her. The rationale of this is not

difficult to find out. The passion of jealousy in us is strong enough to prevent us from stooping to such undesirable course. No one who has any regard and respect for marital relations would ever even think of this kind of divorce which entails such unpleasant course for restoration of conjugal rights. The Quran prescribes it in the following verse :

“ But if he divorces her again, then she shall not be lawful for him after that, until she marry a husband other than him ; and if he divorce her, then it shall be no crime in them to return to each other, if they think that they can keep within the bounds of God ; and these are the bounds of God which He declares to a people who know.” (Surah ii, 230.)

The Holy Prophet always deprecated the *Mughallazzah* divorce : “ It* is reported by Mahmud, son of Ba'id, that the Prophet of God was informed of a man who had divorced his wife by pronouncing the divorce at one time altogether ; whereupon he stood up in anger, and said, “ What ! the great God's book is made a sport of while I am still to be seen among you ? ”

* From Nasai.

and the Prophet grew so very indignant over it that a man actually thought that the Prophet would order the instant death of the man so that he stood up and said, "O Prophet of God, shall I slay him?"

Thus it is clear that this form of divorce at once dissolves the marriage-tie and the consequences of this insensate fury and provocation are the worst in effect. The object of this is to impress upon the parties the necessity of proceeding with caution, judgment, and patience, and also to keep men away from this form of divorce. It would be impossible for a nice sense of honour and modesty to comply with the conditions above-stated in order to renew the conjugal rights. The Prophet has, therefore, forbidden the pronouncing of the divorce thrice at one time altogether, that the marriage relation might not come to an abrupt end.

Divorce may take place by writing as well as by words. In such writings the divorce must be addressed to the wife directly or otherwise. If it is addressed to the wife, it must reach her.

If the deed of divorce is made over to the father of the wife or to the Qazi of the place,

it shall be considered to have been delivered to the wife. A divorce pronounced by a minor or a madman or one in slumber does not take effect.

The man has the power to divorce, but he can also appoint any one to do this for him : he may even appoint his wife to do this, and divorce shall take effect as soon as it is pronounced by the individual authorized to do it. In law, it has been held that this power must be exercised immediately or not at all. "

The court of the Qazi has the power to issue orders for the separation of man and wife in cases hereinafter mentioned : such orders may be issued at the instance of the wife and on the following grounds :—

- (i) On refusing to the alliance after attaining majority, if married while minor.
- (ii) If the man accuses his wife of incontinence ; in which case they can never be married again.
- (iii) If the husband refuses to maintain his wife and excuses his inability to do it before the Qazi.
- (iv) If at the time of marriage the health of the husband is so bad as to

exclude him from manhood ; provided the woman proves that she had no knowledge of it at the time of marriage and that he was still in the same state. But in this case, the Qazi will, above everything, give him a year's time to see if his infirmity is really capable of being cured ; if after the expiry of the term he continues to be in the former state of health the Qazi may dissolve the marriage. In all these cases the dissolution of marriage will take place according to the rules regarding the Báyin form of divorce.

Divorce may only happen at a time when the woman is in a state of purification : it can only be pronounced in three successive periods of the woman's purification ; it cannot be pronounced in one and the same period ; it is irregular to pronounce the divorce thrice at the same time ; it must always be avoided, but if the formula is pronounced thrice at the same time, divorce will take effect, but the man who does this will thereby incur a sin. It is likewise unlawful to pronounce the divorce thrice in one period of a woman's purification.

KHUL'A.

The law of Islam has also made some provisions for the woman to demand separation, if disagreeable relations arising in matrimonial connections drive her to it. This right of the woman is termed Khul'a; but strict injunctions are given in order to deter women from availing themselves of this right. The khul'a is only consequent upon severe necessity. In this case the man is allowed a specified sum, or certain concessions are made by the woman in his favour; but in any case, she is not to pay to him more than she has actually got from her husband. The Qur'an on this subject lays down the following:—

“ But it is not lawful for you to take away anything out of what ye have given them, unless both fear that they cannot keep within the bounds of God. And if ye fear that they cannot keep within the bounds of God, then there shall be no crime in them for what she shall ransom herself with; these are the bounds of God, so do not transgress them; and whoso

transgresses the bounds of God, they are the wrong-doers." (Chapter II, 229.)

The consent of the man is, however, necessary but if he does not agree to separation, while the extent of the animus existing between the parties, in the opinion of the judge, has gone beyond the limits of reconciliation and it seems to him only desirable that the woman should be divorced from the husband at once, the judge may use his discretion and issue injunction upon the husband to allow the wife to go. The following tradition is a good illustration :—

The wife of Sabit, son of Qais, came to the Holy Prophet and said, "O Prophet of God, I do not find any fault in Sabit, son of Qais, in his manners or in his religion, but I do not like to be faithless in my faith, that is, I would not play the hypocrite." The Prophet said, "Wilt thou restore to Sabit the garden he gave thee?" She said, "Yes." The Prophet of God then said to Sabit, "Take back the garden and divorce her at once."

If the wife is not able to pay the sum appointed to be paid by her in khul'a to her husband, the khul'a will not be disallowed, nor the husband entitled to resume his conjugal

rights. Of course, he will be entitled to enforce the payment thereof by a law-suit ; and if the woman sues for her dowry, he may be excused on the ground that she had already given up her rights to the dowry. If it be proved that the husband has divorced the wife at the instance of the wife, and that no compensation was agreed upon to be paid therefor, it has been held that both the parties will have to forego their respective rights, *i.e.*, the wife shall not be entitled to her dowry from the husband, nor the man entitled to receive back part of the dowry already paid to her.

In connection with the subject of divorce the question of *Ilâ*, *Zihâr* and *Liân* deserves special mention. They refer to circumstances which may tend to ill feelings and discord and to guard against them, divorce—a most hateful thing in the eye of God, in Islam—or something akin to it has been prescribed to be a penalty.

Ilâ.—If the husband swears off from his wife for a period of four months or more, it is called *Ilâ*. On the expiry of the period, under the Hanfi Code, the *Báyin* divorce follows as a matter of course. The other Imâms, however,

do not take it for a divorce ; but the man is obliged either to return to his wife and resume the conjugal relations after undergoing the penances ordained,* or to put away his wife by divorce. If, however, the man refuse to divorce her, the Qazi shall issue injunctions for divorce. But if the husband return to his wife within this period, he shall undergo the penance prescribed.

2. *Zihár*— To liken the wife or any other member of her body, by which her person is understood, to any female relatives who are altogether unlawful for a man to marry, and thus render the wife unlawful, is termed *Zihár*. There are several forms of it :

(a) To liken her to a part of one's mother or own sister which it is unlawful for him to see ; e.g., If a man say to his wife, Thou art to me as the back (or belly) of my mother ; the *Zihár* divorce will take effect, and in case the husband desires to resume his conjugal rights he shall undergo the usual penance.

(b) When the likeness involved is not in respect to any part of the body, but is so fully

* These are to fast three days, or to feed or clothe ten poor men, or to free a slave.

expressed as to show that divorce was intended ; e.g., If a man say to his wife, “ Thou art unlawful to me as my mother ” ; in this case either divorce or Zihár may follow : if divorce was intended, then Báyin divorce will happen ; and if only Zihár was intended, the same will follow.

(c) When the likeness involved is not included in any of the two cases above-mentioned, and the words do not clearly show that divorce was meant ; e.g., A man says to his wife, “ Thou art like my mother, or Thou art to me as my mother ” ; in this case it will only take effect according to the intention of the speaker :—

- (i) If divorce was intended, the same will follow.
- (ii) If Zihár was intended, Zihár will follow.
- (iii) If it was intended to respect the wife, neither divorce nor Zihár will happen.

Similarly, if there be no intention on the part of the speaker, the words will be treated as vain, and will carry no effect.

3. *Lián*.—If the wife is charged with infidelity by her husband who can produce no evidence to make out his case, a course has been

prescribed in the following verse of the Quran which, when pursued, entitles the woman to separate herself from marriage tie. It also saves both the parties from undergoing legal penalty--the husband for accusing the woman of unchastity and the wife for adultery if proved otherwise.

“ And those who asperse their wives, and have no witnesses except themselves, then the testimony of one of them shall be to testify four times by God that verily he is of those who speak the truth ; and the fifth time that the curse of God be upon him if he be of the liars. And it shall avert from her the punishment if she bear testimony four times by God that verily he is of the liars, and the fifth time that the wrath of God be upon her if he be of the truthful. And if it were not for the grace of God upon you, and His mercy, and that God is relenting, wise.” (Surah xxiv—6-10).

The judge will then dissolve their marriage, and the woman will be unlawful to the man once for all, and it shall never be lawful for them to marry each other again.

In the case of Zihár, the woman may apply to the court to issue injunctions upon the man

either to repent of what he has said, or to divorce her, in order that she may be entitled to the *mu'ajjal* dowry and to marry afresh.

In the case of Lián also, the woman may obtain a divorce through the court; and she is at all times entitled by law to bring a charge of defamation also against her husband.

Upon a serious consideration of these questions, namely, divorce, *Khul'á*, *Ilá*, *Zihár*, and *Li'án*, it appears that in all of them the greatest regard has been shown to the sanctity and honour of womanhood as also provision made to protect them from all outrageous behaviour, even in words which may affect their position.

'IDDAT.

Although at the death of a husband, or after divorce or *khul'a*, marriage relation comes to an end, but woman has yet to wait for herself for a prescribed period, before she marries another. This period is termed *'iddat*. Its main object is to see if she is not with child by her former husband, and thus to settle the question of the maintenance and inheritance of the coming child.

This period varies according to the circumstances of the case.

(1) In the case of the death of the husband, if the wife is not with child, it is four months and ten days; and if she is with child, the period extends to the time of the birth of the infant.

(2) In the case of divorce or *khul'a*, or any other form of divorce, if the wife is with child, the period extends to the birth of the infant. Thus the Book says:—

“And those who are pregnant, their term is that they lay down their burdens.” (Quran, Chapter LXV, 4.)

And if she is not with child the period of her waiting is until she has had her courses thrice.

‘And the divorced women shall wait for themselves three courses.’ (Chapter II, 228).

With regard to minor girls or such aged women who have despaired of motherhood, the period is fixed at three months. (Chapter LXV, 4).

But if divorce happens before the consummation of marriage, the woman is not to wait for any term at all.

‘O ye who believe, when ye marry believing women, and then divorce them before ye have touched them, ye have no term which ye must fulfil towards them; but provide for them and dismiss them with a decent dismissal.’ (Surah xxxiii, 49).

It is also incumbent upon women waiting their period of *'iddat* not to adorn themselves during this interval. The Holy Traditions say :—

“It is reported by Ummi Atiyah that the Prophet of God (on whom be peace !) said that a woman must not mourn the death of any one for more than three days, unless it be the

husband, in which case she is to observe four months and ten days. Let her not wear during this period any coloured cloth but only ordinary clothes; let her not apply *surma* to the eyes, nor use perfumes except when she is purified after having her courses, when she may use the fragrant herbs and cloves". To this Abu-Daud adds, "And let her not dye her hair."

Besides, it is also incumbent upon the woman to live in the same house where she happened to receive the news of the death of her husband or where the news of her divorce is delivered to her. She may only go out of or leave the house in case of some urgent necessity.

INHERITANCE.

If the dowry of the wife has not been paid, or paid only in part, it is treated as a debt, which, like other debts, has to be paid out of the property left by the husband on his death. Whatever remains after paying all these debts is distributed among the heirs of the deceased, and the wife is also entitled to a share in it.

In the case of children, the wife gets one-eighth as her share, but if he has left no children, she gets one-fourth.

If the wife is dead, her children or her other lawful heirs are entitled to the dowry as well as to her share in the property of the husband ; but in this case the husband also shares the wife's inheritance. If she has no child, or if they are dead, the husband gets one-fourth, in the other case he gets one-half. The law of inheritance is plainly laid down in the Quran, and the following paragraph is wholly devoted to it.

“ God enjoins you concerning your children : a male shall have the like of the share of two females ; but if there be females above two,

then, they shall have two-thirds of what he has left ; and if there be but one, then shall she have the half ; and his parents shall have, each one of them, a sixth of what he has left, if he has a child ; but if he has no child, and his parents be his heirs, then his mother shall have the third ; and if he has brethren, then his mother shall have the sixth, after the legacies which he shall have bequeathed, and debts. Your fathers and your children, ye know not which of them is nearest to you in usefulness ;—an ordinance from God : verily, God is knowing, wise.

“ And ye shall have half of what your wives leave, if they have no issue ; but if they have issue, then ye shall have the fourth of what they leave, after the legacies which they shall have bequeathed, and debts. And they shall have the fourth of what ye leave, if ye have no issue ; but if ye have issue, then they shall have the eighth of what ye leave, after the legacies which ye shall have bequeathed, and debts. And if a man or a woman be inherited by one who is neither parent nor child, and he (or she) have a brother or sister, then each one of the two shall have a sixth ; but if there be

more than that, then shall they be (equal) sharers in a third, after the legacies which shall have been bequeathed, and debts; without prejudice (to any one);—an injunction from God; and God is knowing, mild.” (Surah, iv, 11 and 12).

KINSMEN.

The word family, in the Muslim sense, is not confined only to the relation of man and wife, but it also includes those who are of kin and whose care and good treatment are alike binding upon both man and wife.

A child is a joint asset of both man and wife, who naturally cherish deep-seated affection for it. The duties the parents owe to the child are too clear to be stated here ; but in some families there are step-sons and step-daughters who have to be brought up. If the husband has such a child by a former wife, the present wife may not have natural affection for it, but it is incumbent upon her, in view of its rights as a creature of the same God and to please the husband as well, to treat it with love ; for the generous God has made it to share in the wealth and prosperity of its father. Similarly, if the wife has a child by a former husband which has to be brought up, though it by no means is entitled to the wealth and income of the present husband, but as an act of goodness, as well as

to please the wife, it is incumbent upon the husband to bring it up. The wife, besides, is perfectly within her rights if she brings up the child by expending upon it out of her dowry as also by allowing it to share in the maintenance she receives from her husband.

There are many such instances in the history of Islam to show that the Holy Prophet and his noble Companions reared up such children with the same love and affection which one feels for his own children. 'Every' act of the Holy Prophet is a *synnat* (an example) for the Mussulmans to follow, and every deed of his noble Companions a noble guide.

Just consider and see how strongly such a treatment of each other's children in a family is calculated to bring happiness in a home and to increase the love of man and wife towards each other.

To have regard for parents and other kindred, to help them, and to render them services when needed, are also included among our duties to our relations. Parents who rear up their children after undergoing such hardships, have a right to the services of their children also, and as they spend the greater

part of their wealth and earnings towards the bringing up of their children, they are certainly entitled to avail themselves of their children's earnings and wealth.

“ It is reported by Amar son of Shu'aib, who reports it from his father (who again reports it from his grandfather), that a man came to the Holy Prophet (on whom be peace !) and said, I have wealth, and my father needs my wealth; the Prophet said,—‘ Thou and thy wealth are a possession of thy father;—your children are a part of your good earnings, so eat of the earnings of your children.’

Obedience to parents and kindly treatment and love of one's kin are frequently enjoined upon in the Holy Quran and the sayings of the Holy Prophet. It may also be remarked in this connection that goodness to parents is considered so very important in Islam that it has been inculcated along with the worship of God in the Quran, as the Book says.

“ And serve God, and join not anything with Him, and be good to parents, and to those who are of kin, and to orphans, and the poor, and the neighbour who is of kin, and the neighbour who is a stranger, and the companion

(who stands) by your side, and the wayfarer, and what your right hands have possessed. Verily, God loves not him who is an arrogant boaster." (Quran, Chapter IV, 36).

And we have enjoined upon man concerning his parents,—but, if they strive with thee that thou shouldst join with Me what thou hast no knowledge of, then obey not them." (Chapter XXXI, 14, 15).

"And good to his parents, and he was not a rebellious tyrant." (Chapter XIX, 14).

"And has enjoined me prayer and purity as long as I live, and to be good to my mother, and He has not made me a wicked tyrant." (*Ibid*, 31, 32).

Not only is goodness to parents inculcated, but respect and tenderness towards them also enjoined :

"And thy Lord has ordained that ye serve none but Him ; and goodness to parents show ye, whether the one of them or both of them attain old age with thee, and say not to them even *uff* (' aye '), nor reproach them, but speak to them generous words." (Surah xvii, 23).

The following Quranic verses teach us to behave to our parents with humility and to pray to God to obtain pardon for them and mercy.

“ And droop the wing of humility to them out of compassion, and say, My Lord, have compassion on them both, even as they nursed me when I was little.” (*Ibid*, 24)

There is no need of specifying the other nearer relations. The following tradition from the Holy Prophet is also noteworthy :—

“ Abu-Hurairah reports that a man said, O Prophet of God, who is most worthy to do good to? The Prophet said, Thy mother. He said, And after her? He said, Thy mother. The man said, Then after her? The Prophet said, Thy mother. The man said, Then again after her? The Prophet said, Thy father.” In another tradition the Prophet is reported to have said, “ Thy mother, Thy mother, Thy mother; then after her thy father; then after him those who are nearer of kin to thee.”

In the same strain there is another tradition recorded in the Tirmzi :

“The Holy Prophet thrice ordained the duty of doing good to mother, then to father, and then to those who are nearer of kin.”

“A man came to the Holy Prophet, and said, O Prophet of God, I have committed a great sin. Will my repentance avail me ?” The Prophet said, Is thy mother alive. He said, No. The Prophet said, Is the sister of thy mother alive ? He said, Yes. ‘Then do good to her,’ said the Prophet.”

It is to be inferred from this tradition that the sister of the mother may pray to God to obtain pardon for the man, and goodness to her who is as a mother to him may atone for his sin.

Unfortunately, some of the Muslims do lack many of the virtues of their forefathers and so is exactly the case with regard to the duties of relationship among them. If a brother is in affluent circumstances and the other brothers are poor, in the first place, the man cares little for them ; secondly, if his wife happens to be an ill-tempered woman, or is ill-disposed to the people of her husband, the lives of those whose rights to the good offices of the richer have been so clearly defined in the

Qurān are reduced to a helpless and miserable existence. But the latter man or wife as the case may be feels no shame and fears not the hereafter in regard to the punishment that is threatened to be inflicted upon them in the life to come. Thus goodness, love, and affection to parents and to those of kin are the duties enjoined by God upon children and other relations. Though there be no provision in the temporal law to enforce these duties, yet those who believe in the resurrection and the day of judgment, know for certain that there is a punishment for them in the hereafter, notwithstanding the absence of any provision in the temporal law. If it be under pressure of the wife that the husband cannot fulfil his duties, both shall be held responsible for their conduct to God. If, however, the wife is willing to fulfil her duties to her people, out of her own possessions and property, and is only prevented by her husband, she shall not be held responsible for the non-fulfilment of her duties, inasmuch as of all the duties of a wife the most imperative are those towards her husband; but the husband shall be charged with the sin. In social life, therefore, the happiness and blessings of a

home and the mercy of God upon the inmates largely depend upon the kindly treatment of the parents and other relatives.

“ These are the bounds of God, so do not transgress them ; and whoso transgresses the bounds of God—these, they are the wrong-doers.” (Qur'an, Surah iv, 229.) ,



